

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

From: Carolyn Smith, Principal
Edward Galiber, Education & Technology Advisor
The Empowerment Academy, BEN 16019191
851 Braddish Avenue, Baltimore, MD 21216

Date: May 17, 2012

Re: CC Docket No. 02-6

Request for a Waiver of the deadline for the Service Delivery Extension Request that applies to these FRNs

Appeal of USAC Decision to deny Service Delivery Extension Request (SDER) - (Case # 22-317852)
Applicant: Empowerment Academy
BEN: 160191
Form 471: 767063
FRNs: 2075114, 2074133, 2074151, 2074281, 2074342

On February 22, 2012, USAC denied the appeal by the Empower Academy requesting an extension of the FY2010 September 30, 2011 service delivery deadline. In the denial letter, we were informed that our appeal did not provide ?clear information establishing that application for relief was made prior? to the deadline. We have resubmitted our request to USAC and they have stated they are reviewing the case but we are also filing a formal appeal to the FCC to ensure we are not denied this due process step.

We have only participated in the E-Rate program for the past two (2) years and have been working diligently to develop effective processes to ensure we meet all eligibility requirements and applicable deadlines. We took what we thought were the correct steps to obtain an extension of the deadline when we filed the Form 500 notifying USAC that we had extended the contract with our service provider. At the time, we were not aware that any further action was required, but we asked our consultant to confirm this fact to be sure. We relied on the information conveyed by USAC to our consultant to our detriment, and to the detriment of our service provider. Therefore, we respectfully

request reconsideration of our appeal and present a number of factors we believe support this request. They are as follows:

1. The school consultant filed the Form 500 on September 21, 2011, prior to the September 30, 2011 deadline. At the time, we thought we had satisfied the notice requirement, and if we had been more experienced in the program, would have certainly submitted a letter requesting an extension. We believe our failure to file the SDER should be considered an administrative error, when measured against the adverse impact on the school if the deadline is strictly enforced.
2. The school would have been afforded an automatic extension until September 30, 2012 if the FCDL had been issued just 6 days later. We are asking that the rule to allow schools extra time due to the lateness of the FCDL decision be extended to apply to the Empowerment Academy for this special circumstance.
3. Our service provider was not able to complete all of the work within the scheduled timeframe due to damage to the school caused by last year's earthquake. The school and provider had worked out a timeline that would be acceptable. At the beginning of the agreed period set to complete the installations, our area was hit with the first major east coast earthquake in over 100 years. The building had to be inspected for soundness and structural repairs completed before the installation of internal connections equipment could resume. It is our understanding that the inability of a service provider to complete work by the established deadline through no fault of the service provider, is a basis upon which an internal connections service delivery deadline extension can be approved.
4. Since we thought that we our extension had been granted, we authorized our service provider to continue with its installations after September 30, 2011. As a result, they have already completed substantial installation of equipment for which funding was approved. If our funding is withdrawn, the school would be obligated to pay 100% of the costs for the work competed to date. We are an impoverished school and we would not be able to afford these items at full cost. That action would present a severe hardship for our school. And the failure to pay a provider for services rendered would cause the provider to remove all of the installed equipment and impede our ability to retain the services of quality providers going forward.
5. We are not asking for a long extension, in that our provider has stated they should only require 60-90 days (depending on access and equipment availability) to complete the installation.

We are asking you to take into consideration our efforts to obtain an extension, the fact that our provider's inability to meet the deadline was due to very unusual, extenuating circumstances, and the fact that our provider completed a substantial portion of our project in reliance on information provided by USAC. With this in mind, we respectfully request that the FCC grant our Waiver and/or Appeal

and allow our school to revisit our school project and allow us to complete this vital installation project. As we noted above, the Empowerment Academy is a new E-Rate school and we do not yet have the communications infrastructure critical for providing our schools with quality, reliable technology.

Thank you in advance for reconsideration of our appeal. Please contact our Educational and Technology Advisor, Edward Galiber at 202.246.8692 or via email at edmg@rcn.com if you have any questions concerning this request.

Best Regards,

Carolyn Smith & Edward Galiber